

Comments of the Canadian Produce Marketing Association on the Joint Food and Drug Administration - Customs and Border Protection Plan for Increasing Integration and Assessing the Coordination of Prior Notice Timeframes under the Prior Notice of Imported Food Rule under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act)

Docket No: 2002N-0278

Introduction

The Canadian Produce Marketing Association (CPMA) is pleased to provide comments on the above-referenced *Joint Food and Drug Administration - Customs and Border Protection Plan for Increasing Integration and Assessing the Coordination of Prior Notice Timeframes*.

The CPMA supports the FDA working with Customs and Border Protection (CBP) to synchronize advance notice timeframes for information concerning shipments arriving by land via road or rail, and by air. Synchronized time frames will help to avoid confusion and unnecessary disruptions to trade.

The CPMA is hopeful that the FDA and CBP achieve the goal of a uniform, integrated system with coordinated timeframes for import prior notice information.

Implementation Schedule

The CPMA is concerned that during the proposed review period until 2005, full enforcement of the interim final Prior Notice Rule will be in effect. Consequently, industry will be placed in the difficult position of trying to comply with U.S. requirements which are not synchronized. This confusion could well lead to failure to meet one or either requirement and place industry in the unfair position of being in violation.

C-TPAT Registration – We are aware of a limited number of members actively pursuing C-TPAT; while we expect that many Canadian carriers are registered with FAST. A challenge with these two options for speedier movement is other government department requirements (OGD) that may exist. If a firm is C-TPAT registered, and uses a FAST carrier, it is our view that they should be eligible for a shorter notice period for the purposes of USFDA biosecurity concerns. However, the existence of OGD (e.g. USDA, APHIS) requirements may negate the benefits for fresh fruit and vegetable exports to the United States.

Resource Requirements

The CPMA is concerned that at this stage the resources required by USFDA and CBP may well be insufficient to process the prior notices. Compliance data indicates that there are significant problems, principally with truck movement – which is by far the

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largest commercial mode of transport for fresh fruits and vegetables. Without an understanding of what the compliance problems are, we would simply state that the results of our member survey clearly indicate that there is a problem of understanding in the need for multiple prior notices per truckload. From our industry perspective, our members who are not in compliance are underestimating their direct and indirect costs at this point in time. As USFDA and CBP move towards August 12th, industry will become much more aware of the resource implications and costs. Perhaps FDA already has this data to properly assess their resource implications; however we simply wish to highlight this issue at this point in time. We would be in a better position to provide an impact assessment to this industry if we knew the compliance problems, or had USFDA and CBP been rigourously enforcing the requirements as per their original intended timelines.

Level of Industry Compliance

Further to the above, the CPMA is concerned that the implementation schedule of the Joint Plan may well be delayed due to industry non compliance with the Interim Final Prior Notice Rule. We are willing to try to increase the level of Canadian industry compliance through our member outreach prior to the implementation of the Joint Plan beginning August 12, 2004. To do so, we will need some strong indication from USFDA as to the types of compliance problems. It is unfortunate at this point that many members feel they are already compliant when they are not, and as such, they require further indication from USFDA where they are not meeting the prior notice requirements.

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